

1 SENATE BILL NO. 484

2 INTRODUCED BY T. BECK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A HARD-ROCK MINING RECLAMATION DEBT
5 SERVICE FUND; AUTHORIZING THE BOARD OF EXAMINERS TO ISSUE AND SELL HARD-ROCK MINING
6 RECLAMATION GENERAL OBLIGATION BONDS IN AN AMOUNT NOT EXCEEDING \$8 MILLION UPON THE
7 REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; CREATING THE HARD-ROCK MINING
8 RECLAMATION SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 15-37-117 AND 75-10-743, MCA;
9 AND PROVIDING A DELAYED EFFECTIVE DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13 NEW SECTION. **Section 1. Hard-rock mining reclamation debt service fund.** (1) There is a
14 hard-rock mining reclamation debt service fund within the debt service fund type established in 17-2-102.

15 (2) The state pledges, allocates, and directs to be credited to the hard-rock mining reclamation
16 debt service fund, ~~as received, an amount necessary to satisfy principal and interest payments due on~~
17 ~~outstanding hard-rock mining reclamation bonds~~ MONEY from the metalliferous mines license tax, as
18 provided in 15-37-117.

19 (3) Money in the hard-rock mining reclamation debt service fund that is in excess of the amount
20 needed to satisfy the ANNUAL principal and interest payment requirements in ~~subsection (2)~~ [SECTION 2]
21 must be transferred to the hard-rock mining reclamation special revenue account created in [section 4].

22

23 NEW SECTION. **Section 2. Hard-rock mining reclamation bonds.** (1) When authorized by the
24 legislature and within the limits of the authorization and the further limitations established in this section,
25 the board of examiners may issue and sell hard-rock mining reclamation bonds of the state in the amount
26 and manner that it considers necessary and proper to finance legally required reclamation, operation, and
27 maintenance at hard-rock mines ~~that~~ UPON CERTIFICATION BY THE DIRECTOR OF THE DEPARTMENT THAT THE
28 RECLAMATION, OPERATION, OR MAINTENANCE would otherwise not occur because ~~of~~ THERE IS NO LIKELIHOOD OF
29 GETTING ADDITIONAL FUNDS FROM THE mine operator ~~insolvency or the insufficiency of~~ AND the available surety
30 bond IS INSUFFICIENT. The full faith and credit and taxing powers of the state are pledged for the prompt and

1 full payment of all bonds issued and interest and redemption premiums payable on the bonds according
2 to their terms.

3 (2) Each series of hard-rock mining reclamation bonds may be issued by the board of examiners
4 upon request of the department, at public or private sale, in the denominations and forms, whether payable
5 to the bearer with attached interest coupons or registered as to principal or as to both principal and
6 interest, with provisions for conversion or exchange and for the issuance of notes in anticipation of the
7 issuance of definitive bonds, bearing interest at a rate or rates, maturing at a rate or rates, maturing at the
8 time or times not exceeding 30 years from the date of issue, subject to optional or mandatory redemption
9 at earlier times and prices and upon notice, with provisions for payment and discharge by the deposit of
10 funds or securities in escrow for that purpose, and payable at the office of the banking institution or
11 institutions within or outside the state, as the board of examiners determines, subject to the limitations
12 contained in 17-5-731 and this section.

13 (3) In the issuance of each series of hard-rock mining reclamation bonds, the interest rates,
14 maturities, and any mandatory redemption provisions of the bonds must be established in a manner that
15 the funds then specifically pledged and appropriated by law to the hard-rock mining reclamation debt
16 service fund created in [section 1] will, in the judgment of the board of examiners, be received in an
17 amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in
18 that year with respect to that and all prior series of the bonds, except outstanding bonds as to which the
19 obligation of the state has been discharged by the deposit of funds or securities sufficient for their
20 payment in accordance with the terms of the resolutions by which they are authorized to be issued.

21 (4) In all other respects, the board of examiners is authorized to prescribe the form and terms of
22 the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. The
23 bonds, notes, and any interest coupons appurtenant to the bonds and notes must be signed by the
24 members of the board of examiners, and the bonds and notes must be issued under the great seal of the
25 state of Montana. The bonds, notes, and coupons may be executed with facsimile signatures and seal
26 in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of
27 all the bonds and notes issued and sold.

28 (5) All proceeds of bonds or notes issued under this section must be deposited in the hard-rock
29 mining reclamation special revenue account created in [section 4].

30 (6) All actions taken by the board of examiners under this section must be authorized by a vote

1 of a majority of the members.

2

3 NEW SECTION. Section 3. Authorization for sale of hard-rock mining reclamation bonds. The
4 board of examiners is authorized to issue and sell hard-rock mining reclamation general obligation bonds
5 in an amount not exceeding \$8 million upon the request of the department, as provided for in [section 2].
6 Proceeds of the bonds or notes are allocated to the hard-rock mining reclamation special revenue account
7 provided for in [section 4] to fund:

8 (1) legally required reclamation, operation, and maintenance at hard-rock mines that would
9 otherwise not occur ~~because~~ WHEN THE DIRECTOR OF THE DEPARTMENT DETERMINES THAT ~~of~~ THERE IS NO LIKELIHOOD
10 OF GETTING ADDITIONAL FUNDS FROM THE mine operator ~~insolvency or the insufficiency of~~ AND the available
11 surety bond IS INSUFFICIENT; and

12 (2) the costs of issuing the bonds or notes.

13

14 NEW SECTION. Section 4. Hard-rock mining reclamation special revenue account. (1) There is
15 a hard-rock mining reclamation special revenue account within the state special revenue fund established
16 in 17-2-102. There must be paid into the account:

17 (a) revenue from the sale of hard-rock mining reclamation bonds issued by the board of examiners
18 pursuant to [sections 2 and 3];

19 (b) interest income earned on the account; and

20 (c) excess ~~bond debt service money~~ MONEY TRANSFERRED FROM THE HARD-ROCK MINING RECLAMATION
21 DEBT SERVICE FUND as described in [section 1].

22 (2) Funds may be appropriated from the hard-rock mining reclamation special revenue account for
23 the following purposes only:

24 (a) state costs of implementing legally required reclamation, operation, and maintenance at
25 hard-rock mines that would otherwise not occur ~~because~~ of THERE IS NO LIKELIHOOD OF GETTING ADDITIONAL
26 FUNDS FROM THE mine operator ~~insolvency or the insufficiency of~~ AND the available surety bond IS
27 INSUFFICIENT; ~~and~~

28 (B) STATE COSTS OF IMPLEMENTING LEGALLY REQUIRED RECLAMATION, OPERATION, AND MAINTENANCE NEITHER
29 ELIGIBLE FOR NOR REASONABLY EXPECTED TO BE REIMBURSED FROM OTHER FEDERAL OR PRIVATE FUNDS; AND

30 ~~(b)(c)~~ (c) state costs related to the implementation of [sections 1 through 4].

1

2 **Section 5.** Section 15-37-117, MCA, is amended to read:

3 **"15-37-117. Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes
4 collected under the provisions of this part must, in accordance with the provisions of 15-1-501, be
5 allocated as follows:

6 (a) to the credit of the general fund of the state, 58% of total collections each year;

7 (b) to the state special revenue fund to the credit of a hard-rock mining impact trust account,
8 2.5% of total collections each year;

9 (c) to the hard-rock mining reclamation debt service fund created in [section 1] ~~orphan share state~~
10 ~~special revenue account established in 75-10-743~~, 8.5% of total collections each year;

11 (d) to the reclamation and development grants program state special revenue account, 7% of total
12 collections each year; and

13 (e) on or before June 1, to the county or counties identified as experiencing fiscal and economic
14 impacts, resulting in increased employment or local government costs, under an impact plan for a
15 large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the
16 fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the
17 county in which the mine is located, 24% of total collections each year, to be allocated by the county
18 commissioners as follows:

19 (i) not less than 37.5% to the county hard-rock mine trust reserve account established in
20 7-6-2225; and

21 (ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated
22 as follows:

23 (A) 33 1/3% is allocated to the county for planning or economic development activities;

24 (B) 33 1/3% is allocated to the elementary school districts within the county that have been
25 affected by the development or operation of the metal mine; and

26 (C) 33 1/3% is allocated to the high school districts within the county that have been affected
27 by the development or operation of the metal mine.

28 (2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307
29 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under
30 subsection (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6,

1 part 4.

2 (3) The department shall return to the county in which metals are produced the tax collections
3 allocated under subsection (1)(e). The allocation to the county described by subsection (1)(e) is a statutory
4 appropriation pursuant to 17-7-502."

5

6 **Section 6.** Section 75-10-743, MCA, is amended to read:

7 **"75-10-743. (Temporary) Orphan share state special revenue account -- reimbursement of claims**
8 **-- payment of department costs.** (1) There is an orphan share account in the state special revenue fund
9 established in 17-2-102 that is to be administered by the department. Money in the account is available
10 to the department by appropriation and must be used to reimburse remedial action costs claimed pursuant
11 to 75-10-742 through 75-10-752 and to pay costs incurred by the department in defending the orphan
12 share.

13 (2) There must be deposited in the orphan share account:

14 ~~(a)~~ money allocated from the metalliferous mines license tax pursuant to ~~15-37-117~~;

15 ~~(b)~~(a) all penalties assessed pursuant to 75-10-750(12);

16 ~~(c)~~(b) funds received from the interest income of the resource indemnity trust fund pursuant to
17 15-38-202;

18 ~~(d)~~(c) funds allocated from the resource indemnity and ground water assessment tax proceeds
19 provided for in 15-38-106;

20 ~~(e)~~(d) unencumbered funds remaining in the abandoned mines state special revenue account;

21 ~~(f)~~(e) interest income on the account;

22 ~~(g)~~(f) funds received from settlements pursuant to 75-10-719(7); and

23 ~~(h)~~(g) funds received from reimbursement of the department's orphan share defense costs
24 pursuant to subsection (6).

25 (3) If the orphan share fund contains sufficient money, valid claims must be reimbursed
26 subsequently in the order in which they were received by the department. If the orphan share fund does
27 not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may
28 not be made and the orphan share fund, the department, and the state are not liable for making any
29 reimbursement for the costs. The department and the state are not liable for any penalties if the orphan
30 share fund does not contain sufficient money to reimburse claims, and interest may not accrue on

1 outstanding claims.

2 (4) Except as provided in subsection (8), claims may not be submitted and remedial action costs
3 may not be reimbursed from the orphan share fund until all remedial actions, except for operation and
4 maintenance, are completed at a facility.

5 (5) Reimbursement from the orphan share fund must be limited to actual documented remedial
6 action costs incurred after the date of petition provided in 75-10-745. Reimbursement may not be made
7 for attorney fees, legal costs, or operation and maintenance costs.

8 (6) (a) The department's costs incurred in defending the orphan share must be paid by the persons
9 participating in the allocation under 75-10-742 through 75-10-752 in proportion to their allocated shares.
10 The orphan share fund is responsible for a portion of the department's costs incurred in defending the
11 orphan share in proportion to the orphan share's allocated share, as follows:

12 (i) If sufficient funds are available in the orphan share fund, the orphan share fund must pay the
13 department's costs incurred in defending the orphan share in proportion to the share of liability allocated
14 to the orphan share.

15 (ii) If sufficient funds are not available in the orphan share fund, persons participating in the
16 allocation under 75-10-742 through 75-10-752 shall pay all the orphan share's allocated share of the
17 department's costs incurred in defending the orphan share in proportion to each person's allocated share
18 of liability.

19 (b) A person who pays the orphan share's proportional share of costs has a claim against the
20 orphan share fund and must be reimbursed as provided in subsection (3).

21 (7) If any money remains in the orphan share fund after June 30, 2005, and after outstanding
22 claims are paid, the money must be deposited in the general fund.

23 (8) If the lead liable person under 75-10-746 presents evidence to the department that the person
24 cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will
25 cause undue financial hardship on the person, the department may allow the submission of claims and may
26 reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early
27 reimbursement unless the person is in substantial compliance with all department-approved remedial action
28 plans.

29 (9) A person participating in the allocation process who received funds under the mixed funding
30 pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or

1 receive reimbursement from the orphan share fund for the amount of funds received under the mixed
2 funding pilot program that are later attributed to the orphan share under the allocation process. (Terminates
3 June 30, 2005--sec. 30, Ch. 415, L. 1997.)"

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5 NEW SECTION. **Section 7. Two-thirds vote required.** Because [sections 2 and 3] authorize the
6 creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of
7 the members of each house of the legislature for passage.

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9 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be
10 codified as an integral part of Title 82, chapter 4, part 3, and the provisions of Title 82, chapter 4, part
11 3, apply to [sections 1 through 4].

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13 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2002.

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